

Stephen C. Seto (SBN 175458)
(sseto@wcjuris.com)
BERGQUIST WOOD McINTOSH SETO LLP
1470 Maria Lane, Suite 300
Walnut Creek, CA 94596
Telephone: (925) 938-6100
Facsimile: (925) 938-4354

Attorneys for Plaintiffs
CHICAGO TITLE INSURANCE COMPANY, ET AL.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

FIDELITY NATIONAL TITLE
INSURANCE COMPANY, et al.,

Plaintiffs,

VS.

JAMES C. CASTLE aka J.
CHRISTOPHER CASTLE et al., and
Does 1 through 100, inclusive,

Defendants.

No. C-11-00896 YGR

**CHICAGO TITLE INSURANCE
COMPANY'S APPLICATION FOR AN
ORDER TO SHOW TO CAUSE WHY
DEFENDANT AND HIS COUNSEL
SHOULD NOT BE HELD IN CONTEMPT
AND SANCTIONED FOR FAILURE TO
COMPLY WITH AUGUST 11, 2014 ORDER**

Ctrm: 1

Judge: Hon. Yvonne Gonzalez Rogers

No Trial Date Set

And Related Cross-Actions

Plaintiff Chicago Title Insurance Company hereby respectfully requests that the Court issue an Order to Show Cause why Defendant James C. Castle and his counsel, Ann M. Draper, should not be held in contempt and sanctioned for failing to pay \$5,600 in sanctions to Plaintiff as required by this Court's Order dated August 11, 2014 [Dkt No. 701] ("Sanctions Order").

ARGUMENT

On August 11, 2014, the Court issued the Sanctions Order requiring that Castle and Ms. Draper **immediately** pay Plaintiff \$5,600 in sanctions for various discovery abuses. The

1 Sanctions Order also states that "Further sanctions may be warranted if Castle and his counsel
 2 persist in the stonewalling behavior exhibited thus far."

3 On August 25, 2014, Plaintiff sent a letter to Ms. Draper stating it had not received the
 4 sanctions payment (which was two weeks overdue) and warning her that if payment was not
 5 received by close of business on August 26, 2014, it would be forced to seek Court relief and
 6 additional sanctions. On August 26, 2014, at 9:31 p.m., Ms. Draper sent Plaintiff an e-mail
 7 stating she was in a settlement conference in Los Angeles and would contact Plaintiff about its
 8 letter. The e-mail says nothing about when or if Castle intended to comply with the Sanction
 9 Order.

10 The refusal to abide by an order constitutes a contempt of court. *Suntex Dairy v.*
 11 *Bergland*, 591 F.2d 1063, 1068 (5th Cir. 1979). It is well established that the court has the
 12 inherent power and statutory authority to punish such contempt and to coerce compliance with its
 13 orders. *International Union, UMWA v. Bagwell*, 512 US 821, 831–832 (1994); 18 USC §§ 401–
 14 402. An award of attorney fees for civil contempt is within the district court's discretion.
 15 *Harcourt Brace Jovanovich Legal & Prof. Pub., Inc. v. Multistate Legal Studies, Inc.*, 26 F.3d
 16 948, 953 (9th Cir.1994).

17 As of the date of this Motion, Plaintiff has not received any payment from Castle or Ms.
 18 Draper. Consequently, Plaintiff hereby respectfully requests that the Court issue an Order to
 19 Show Cause why Castle and his counsel should not be: (1) held in contempt for failing to comply
 20 with the Sanction Order; (2) sanctioned in a manner that coerces them to comply with the
 21 Sanction Order; and (3) sanctioned an additional \$777.50 which represents Plaintiff's attorney's
 22 fees that it incurred in bringing this Motion.

23
 24 Dated: August 27, 2014

BERGQUIST WOOD McINTOSH SETO LLP

25
 26 /s/ Stephen C. Seto

27 STEPHEN C. SETO

28 Attorneys for Plaintiff Chicago Title Insurance
 Company